

**Before the Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Facilitating the Provision)
of Spectrum-Based Services to Rural)
Areas and Promoting Opportunities for)
Rural WT Docket No. 02-381 Telephone)
Companies to Provide Spectrum-Based)
Services.)

**COMMENTS OF
THE NEBRASKA RURAL INDEPENDENT COMPANIES**

The Nebraska Rural Independent Companies (the “Nebraska Companies”),¹ by their attorneys, respectfully submit their comments in the above-captioned proceeding. This proceeding seeks comment on the effectiveness of the Federal Communications Commission’s (“Commission”) current regulatory tools in facilitating the delivery of spectrum-based services to rural areas, as requested by the Commission in its Notice of Inquiry (“NOI”).² The Nebraska Companies appreciate the opportunity to comment on the Commission’s policies to promote the further development and deployment of spectrum-based services in rural areas. The Nebraska Companies will focus their comments on whether the Commission’s eligible telecommunications carrier (“ETC”) rules have promoted deployment of wireless service to rural areas and greater subscribership in these areas. The Nebraska Companies believe that the Commission’s

¹ Companies submitting these collective comments include: Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., Hooper Telephone Company, K&M Telephone Company, Inc., NebCom, Inc., Nebraska Central Telephone Company, Northeast Nebraska Telephone Co., Pierce Telephone Co., Rock County Telephone Company, Stanton Telephone Co., Inc. and Three River Telco.

² See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, WT Docket No. 02-381, Notice of Inquiry, FCC 02-325 (rel. Dec. 20, 2002) (“*Rural Spectrum NOI*”).

ETC rules have not promoted deployment of wireless service to rural areas and greater subscribership in these areas.

Wireless carriers were formulating business plans and providing service in rural areas well before the Telecommunications Act of 1996 became law, in an environment in which wireless carriers could not have contemplated seeking ETC status and universal service support. Thus, wireless carriers had largely deployed service to rural areas prior to seeking ETC status, and then sought ETC status and universal service funds.

The Commission asks commenters to provide information on how many of the customers served by wireless carrier ETCs also maintain wireline phones.³ The Commission also asks “[h]ow many customers had no phone service whatsoever until they purchased wireless service?”⁴ The Nebraska Companies suggest that the Commission should continue to work with the Bureau of the Census in adding appropriate questions to gather statistically significant data to answer these questions through the Current Population Survey (“CPS”). The Commission indicates that in the November 2001 CPS survey, consumers were asked what types of phones they had.⁵

The Nebraska Companies recommend that a question be added to determine the quantity of wireline and wireless service subscriptions in each housing unit and available to each household. In addition, a question should be asked regarding the purposes for which the wireline and wireless services are used. A household may subscribe to both services because the services offer different capabilities. For example, a household may

³ Id. at para. 30.

⁴ Ibid.

⁵ See *Telephone Subscribership in the United States*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, rel. Nov. 2002 at p. 2.

subscribe to wireline services in order to have reliable access to emergency services such as 911 and E911, or to receive broadband access to the Internet. The answers to these questions have important policy ramifications. As such, the Commission should seek to gather appropriate data to answer these questions, rather than only relying on what is likely to be largely anecdotal data from commenters.

In addition to assisting in answering the questions posed in this docket, such information would be useful to the Joint Board on Universal Service (the “Joint Board”). The Commission has referred questions relating to support in competitive study areas to the Joint Board.⁶ Data gathered in response to these questions would help the Joint Board estimate the potential impact of either changing the rules regarding calculation of universal service support, or leaving the rules as they currently stand. Because such data would clarify the impacts of policy decisions on these issues, the Nebraska Companies strongly recommend that the Commission work to gather data as suggested above. The Commission is already participating in the CPS to gather telephone penetration data. As such, the addition and modification of questions should not be as significant an effort as if the Commission attempted to gather such data without an existing procedure in place.

In the absence of comprehensive data to provide information regarding how many of the customers served by wireless carrier ETCs also maintain wireline phones, the Nebraska Companies will draw conclusions herein based on public data from several published sources. The data presented will be for nearby Plains states with which the Nebraska Companies are most familiar. The Nebraska Companies have reviewed a combination of telephone penetration rates, number of households, and subscriptions

⁶ See generally *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, (rel. Nov. 8, 2002).

submitted to the Universal Service Administrative Company (“USAC”) for universal service support.

The Nebraska Companies compared the number of subscriptions submitted by Western Wireless, a wireless ETC serving primarily western states, to the number of households that did not have telephone service in the states of North Dakota and South Dakota. The number of households in each state without telephone service was estimated by multiplying the proportion of households without telephone service by the number of households in each state, respectively.⁷ Using this method, the estimated number of households without telephone service is approximately 9,300 in North Dakota and is approximately 14,200 in South Dakota.

In its most recent submission estimating the number of loops that would be eligible for universal service support,⁸ Western Wireless indicated that it would have an estimated 45,331 subscriptions eligible for universal service in North Dakota, and approximately 30,108 subscriptions in South Dakota.⁹ Thus, Western Wireless has submitted subscriptions for universal service support that equal almost five times the number of households without phone service in North Dakota and subscriptions that are over twice the number of households without phone service in South Dakota. These proportions clearly indicate that the vast majority of subscriptions that Western Wireless

⁷ Data on telephone penetration rates, which was used to compute the proportion of households without telephone service was obtained from *Telephone Subscribership in the United States*. The data was for March 2002, the most recent time period for which telephone penetration rate data is available. The number of households, or occupied housing units from the 2000 Census of Population was obtained from the United States Census Bureau at: <http://factfinder.census.gov/servlet/BasicFactsServlet>, Table GCT-H5.

⁸ First Quarter 2003.

⁹ See <http://www.universalservice.org/overview/filings/default.asp>, Appendix HC04, at p. 19 and p. 26.

has submitted for universal service in North Dakota and South Dakota are for customers that also maintain wireline telephones.

In addition to the logical conclusion that most customers served by wireless ETCS also maintain wireline telephones, the data for South Dakota indicates that multiple wireless subscriptions per household are apparently being submitted for universal service support. The USAC website indicates that Western Wireless is receiving federal universal service support in South Dakota only for the Pine Ridge Indian Reservation. Western Wireless has submitted 30,108 subscriptions for support of customers living on the Pine Ridge Indian Reservation, however, census data indicates that only 3,183 households comprising a total population of 14,068 are found on the reservation.¹⁰ Thus, the subscriptions submitted by Western Wireless for universal service support average about nine subscriptions per household, or roughly two subscriptions for every person living on the reservation. This obviously raises grave questions as to the proper verification of wireless universal service support submissions.¹¹

While the Commission may wish to use its ETC rules to promote deployment of wireless service to rural areas and to create greater subscribership in these areas, the Nebraska Companies do not believe that the current policy is appropriately directing limited universal service funding resources. A policy that would encourage the magnitude of wireless supported subscriptions that are being submitted for the Pine Ridge Indian Reservation, while several thousand households within the state of South Dakota

¹⁰ Data available at: <http://factfinder.census.gov/servlet/BasicFactsServlet>.

¹¹ There may be other instances in which wireless carriers have submitted several subscriptions per household for support. The USAC website does not provide data on subscriptions submitted for each study area by wireless carriers, therefore, it is impossible to compare the number of subscriptions submitted by wireless carriers to the number of households that are found in each study area.

still lack telephone service, is not directing resources to promoting greater subscribership to the telephone network throughout that state.

The Nebraska Companies believe that the ETC rules do not promote deployment of wireless service to rural areas. For example, Western Wireless was offering service to customers in North Dakota and South Dakota long before it submitted subscriptions for federal universal service support. The growth in the subscriptions it has submitted for universal service support also suggests that many of the subscriptions it is now submitting for support are for customers that it had before it received ETC designation and the right to seek universal service support. For example, Western Wireless estimated that it would have 18 subscriptions eligible for universal service support in the fourth quarter of 2002 for North Dakota.¹² In the first quarter of 2003, the number of projected subscriptions increased to 45,331. In the fourth quarter of 2002, Western Wireless submitted a projected 1,440 subscriptions for universal service support in South Dakota.¹³ In the first quarter of 2003, the number of projected subscriptions increased to 30,108. It would be virtually impossible for a carrier to deploy new equipment to serve this greatly increased number of customers in three months. Therefore, the logical conclusion is that the subscriptions that are being submitted for support existed before designation was received and an expectation to receive support was realized. If this is the case, then the Commission's ETC rules did not promote the deployment of wireless services to rural areas. Rather, the wireless carriers entered the market under business plans that could not have contemplated the receipt of universal service support, as wireless service was not

¹² See <http://www.universalservice.org/overview/filings/default.asp>, Appendix HC04, at p. 18.

¹³ Id. at p. 25.

considered to be a “universal service” when it was initially offered. Thus, wireless services were already being offered, and wireless carriers sought support after the fact, instead of targeting deployment of service to rural areas in order to receive universal service support. As such, the current universal service policies are not justified on the basis that they supposedly promote the deployment of wireless services to rural areas.

The Nebraska Companies appreciate the opportunity to comment on the impact of ETC rules with regard to the deployment of wireless services in rural areas. As the Commission notes in *Rural Spectrum NOI*, it anticipates that the Joint Board will develop information on the impact of the Commission’s ETC rules on deployment of wireless services to rural areas.¹⁴ In fact, the ETC rules are to be a major focus of the Joint Board inquiry. As such, the Nebraska Companies believe that the Commission should carefully weigh the information developed in the Joint Board Inquiry in crafting universal service support rules that promote deployment of telephone service to the greatest number of subscribers in a cost effective manner.

Dated: January 31, 2003.

¹⁴ See *Rural Spectrum NOI* at para. 30.

Respectfully submitted,

Arlington Telephone Company
Blair Telephone Company,
Cambridge Telephone Company,
Clarks Telecommunications Co.,
Consolidated Telephone Company,
Consolidated Telco Inc.,
Eastern Nebraska Telephone Company,
Great Plains Communications, Inc.,
Hartington Telecommunications Co., Inc,
Hershey Cooperative Telephone Company,
Inc.,
Hooper Telephone Company,
K&M Telephone Company, Inc.,
Nebcom, Inc.,
Nebraska Central Telephone Company,
Northeast Nebraska Telephone Company,
Pierce Telephone Co.,
Rock County Telephone Company,
Stanton Telephone Co., Inc., and
Three River Telco

By: Paul M. Schudel
Paul M. Schudel, No. 13723
James A. Overcash, No. 18627
WOODS & AITKEN LLP
301 South 13th Street, Suite 500
Lincoln, Nebraska 68508
(402) 437-8500
(402) 437-8558 Facsimile